

# PORT OF HOUSTON AUTHORITY

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LINDA HENRY  
Assistant General Counsel  
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December 16, 2009

VIA EMAIL

Mr. Albert R. Axe, Jr.  
Winstead PC  
401 Congress Avenue  
Suite 2100  
Austin, TX 78701  
[aaxe@winstead.com](mailto:aaxe@winstead.com)

Re: San Jacinto River Waste Pits-Access Agreement

Dear Mr. Axe:

We are in receipt of your letter dated December 7, 2009 and enclosing a proposed Access Agreement, which were received in the Port of Houston Authority's Executive Office on December 9, 2009. You have requested that the Port of Houston Authority ("PHA") grant access to certain portions of the property described as the "San Jacinto River Waste Pits Superfund Site" ("Site") in the "Unilateral Administrative Order for Remedial Investigation/Feasibility Study" ("Order") filed on November 20, 2009 In the Matter of: San Jacinto River Waste Pits, Superfund Site, Pasadena, Texas, U.S. EPA Region 6, CERCLA Docket No. 06-03-10. We are unable to execute your proposed Access Agreement, as among other things, the PHA is unable to indemnify you in connection with your proposed activities, although we do not object to the work that the U.S. Environmental Protection Agency ("EPA") has asked you to perform in connection with the Order.

The extent of any interest by the PHA in connection with the Site is unclear. However, to the extent that the PHA has any interest in the submerged sediments in the San Jacinto River, it does not object to entry onto the Site by (i) International Paper Company, Inc. and McGinnes Industrial Management Corporation ("Respondents") and their consultants, contractors, agents, and employees or (ii) the U.S. Environmental Protection Agency and its contractors and oversight officials ((i) and (ii) collectively referred to as "Grantees"), for the purpose of performing the work identified in the Order. Additionally, the PHA understands and accepts that Respondents are not EPA's representatives with respect to any liability associated with Site activities; vis a vis the PHA, any and all liability associated with work performed by Grantees at the Site are at their sole risk. Nothing in this letter is to be construed as any waiver of any rights of the PHA in connection with the Site, the San Jacinto River and/or any actions by Grantees.

For your additional information, the PHA has been added to EPA's mailing list to receive notices and information pertaining to this project as they are released. Hopefully this letter addresses the issues you have raised so that a meeting is not necessary at this time, but please feel free to call me if you have any questions.

Very truly yours,



Linda Henry

cc: Ms. Barbara Nann  
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